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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,971	07/23/2001	Lynn George Miller	4336 P	5151

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EXAMINER

OLSON, LARS A

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 06/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/911,971

Applicant(s)

MILLER, LYNN GEORGE

Examiner

Lars A Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3617

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/2003 has been entered.
2. An amendment was received from the applicant on May 27, 2003.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlisle (US 5,664,975) in view of Beck (US 5,222,802).

Art Unit: 3617

Carlisle discloses a boat propeller safety enclosure, as shown in Figures 3-6, that is comprised of a cloth cover or bag, defined as Part #12, with a first side having a shape and a second side having an adjustable opening, as shown in Figure 6, and a cinch region on said second side of said cover or bag, defined as Part #22, that is further comprised of a loop of fabric, defined as Part #24, an opening for access to the interior of said loop of fabric, as shown in Figure 6, a tying device or drawstring, defined as Part #40, that is located generally within said loop of fabric and having a first end and a second end extending out of said opening, as shown in Figure 6, and a releasable lock device, defined as Part #50, that is fitted to said first end and said second end of said tying device, as shown in Figure 6. Said cover or bag is provided with reflective tape, defined as Part #60, that is a fluorescent orange in color, as stated in lines 26-27 of column 4, as well as a second opening for drainage, defined as Part #30 in Figure 8, as stated in lines 50-52 of column 4. Said cover or bag is also sized and shaped to adopt the general shape of a propeller when it is installed and cinched tightly about said propeller, as shown in Figures 3 and 4.

Carlisle, as set forth above, does not disclose the use of a hard circularly shaped insert panel within said cover to define the shape of said first side, an insert panel made from either plastic or metal, and a cover made from a mesh or plastic material.

Beck discloses a flexible bag assembly, as shown in Figure 2, that is comprised of a flexible bag, defined as Part #11, that is made from a polyethylene plastic material, a support structure, defined as Part #26, that is also made from a plastic material and is positioned within

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Art Unit: 3617

said bag through an opening, defined as Part #18, in order to support said bag against collapse, and a cinch string, defined as Part #20, for closing said opening, as shown in Figure 2.

The use of a circularly shaped insert panel to provide a circular shape to a portion of a flexible bag would be considered by one of ordinary skill in the art to be a design choice based upon the desired supported orientation of said flexible bag during use, and the supported load on said flexible bag during use.

It is known in the art to utilize a cover or bag that is made from a mesh material, as well as bags that are formed from tubular plastic mesh.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize an insert support structure for a flexible bag, as taught by Beck, in combination with the boat propeller safety enclosure as taught by Carlisle for the purpose of providing a propeller cover that is supported internally in order to hold a desired shape, and is made from a lighter and stronger material that is easily drained of water.

#### *Response to Arguments*

5. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

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Art Unit: 3617


*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

June 11, 2003



S. JOSEPH MORANO  
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